

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

MARTIN G. WILKINSON,

Plaintiff,

v.

AARON FORD,

Defendant.

Case No. 3:24-cv-00261-MMD-CSD

ORDER

Pro se Plaintiff Martin G. Wilkinson seeks to sue various Defendants arising out of his arrest for walking on the side of Interstate 80, overnight detention in the local jail, and corresponding criminal charges. (ECF No. 5 (“FAC”).) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 7), screening Wilkinson’s FAC, recommending that some of his proposed defendants be dismissed with prejudice, but also that Wilkinson be granted leave to amend again against his other proposed defendants. To date, no objections to the R&R have been filed. Because there is no objection, and as further explained below, the Court will adopt the R&R.

Because there is no objection, the Court need not conduct *de novo* review, and is satisfied that Judge Denney did not clearly err. *See United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.” (emphasis in original)). Judge Denney first recommends the Court dismiss Wilkinson’s claims against Nevada Attorney General Aaron Ford and Washoe County Sherrif Darin Balaam because there is no supervisory liability under 42 U.S.C. § 1983 and Wilkinson appears to attempt to sue them in that capacity only. (ECF

1 No. 7 at 4-5.) Judge Denney next recommends that Wilkinson be given one more chance
2 to amend his currently insufficient claims against Nevada Highway Patrol officers
3 Kaminski and Baum. (*Id.* at 5-6.) Judge Denney then similarly recommends Wilkinson be
4 given another opportunity to amend his claims against officers at the jail, the Washoe
5 County Detention Facility (“WCDF”), though his claims against them currently lack
6 adequate factual allegations. (*Id.* at 6-7.) But then Judge Denney recommends
7 Wilkinson’s claims against the unnamed Washoe County Administrators of the Sparks
8 Justice Court be dismissed with prejudice because he includes no allegations against
9 them in his FAC. (*Id.*) Judge Denney next recommends Wilkinson be given another
10 opportunity to amend his claim against Bailiff Department Supervisor Officer Scott Kreber
11 though his current claim lacks plausible factual allegations. (*Id.*) Judge Denney then
12 recommends that Wilkinson’s claims against unnamed Washoe County Department of
13 Alternative Sentencing Staff Members be dismissed with prejudice because his current
14 allegations do not state a claim, he fails to allege what any particular person did to violate
15 his rights, and he has already been given an opportunity to amend these claims. (*Id.* at
16 8.) And Judge Denney finally recommends treating Plaintiff’s motion for extension of time
17 as a request for another opportunity to amend and granting it. (*Id.* at 9.) Having reviewed
18 the R&R, Judge Denney did not clearly err.

19 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF
20 No. 7) is accepted and adopted in full.

21 It is further ordered that the Court construes Wilkinson’s request for an extension
22 of time (ECF No. 6) as a request for additional time to file an amended complaint and
23 grants it to the extent the Court is giving Wilkinson an additional 30 days to file a Second
24 Amended Complaint (“SAC”) consistent with this order.

25 It is further ordered that the following Defendants are dismissed from this case with
26 prejudice: Nevada Attorney General Aaron Ford; Washoe County Sheriff Balaam;
27 Washoe County Administrators of the Sparks Justice Court; and Washoe County
28 Department of Alternative Sentencing Staff Members.

1 It is further ordered that the following Defendants are dismissed from the FAC
2 without prejudice, and with leave to amend: NHP Officers Kaminski and Baum; the three
3 officers at WCDF; and Bailiff Department Supervisor Scott Kreber.

4 It is further ordered that Wilkinson must review Judge Denney's R&R in detail when
5 preparing his SAC to identify and address the deficiencies Judge Denney identified in the
6 FAC as to his claims against the Defendants against whom he may proceed.

7 To that end, the Clerk of Court is directed to send Wilkinson another copy of the
8 R&R (ECF No. 7) along with this order.

9 It is further ordered that Wilkinson must file any SAC consistent with this order and
10 the R&R within 30 days. Any SAC must be complete in and of itself without referring to or
11 incorporating by reference any previous complaint. Any allegations, parties, or requests
12 for relief from a prior complaint that are not carried forward in the SAC will no longer be
13 before the Court.

14 It is further ordered that Wilkinson must clearly title his SAC, if he files one, "Second
15 Amended Complaint."

16 It is further ordered that, if Wilkinson does not file a SAC within 30 days, the Court
17 may dismiss this case, in its entirety, with prejudice, and without further advance notice
18 to Wilkinson.

19 DATED THIS 9th Day of December 2024.

20
21 

22 MIRANDA M. DU
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28